IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION No : 16972 of 1994

Between:
D.Amen Raju, S/o. Late Charles.
Rajahmundry, East Godavari District.

..... PETITIONER

And

1 Chairman & Presiding Officer, Industrial Tribunal cum Labour Court, Visakhapatnam.
2 The Management, A.P.Paper Mills, rep., by Managing Director. Rajahmundry, East Godavari. District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records relating and leading to the Award dated 09/11/1993 passed in ID No.9/87 on the file of the 1st respondent and published in GO Rt.No.176 dated 17/01/1994 Women's Development Child welfare and Labour (Lab.I) Dept., Govt. of A.P., and quash the same in so far as not granting the reliefs of reinstatement with back wages and all attendant benefits, by issue of a writ of Certiorari or any other appropriate writ, order o direction

For the Petitioner:MR.M.S.R.SUBRAHMANYAM

For the Respondent No.1: GP FOR SOCIAL WELFARE

For the Respondent No.2:Mr.V.Srinivas, Advocate.

The Court made the Following :

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ORDER:

1. This Writ Petition is filed challenging the award passed by the Industrial Tribunal-cum-Labour Court (in short "Tribunal"), Visakhapatnam, in I.D.No.9 of 1997.

2. The petitioner was working as Supervisor in Andhra Pradesh Paper Mills, Rajahmundry. While so, a charge sheet was issued alleging that he has committed theft of the following articles.

1) Camel ink Bottle (sealed) ……. 1 No.
2) Bar Soap 6" length ……. 1 No.
3) 1/4 metre sine cloth ……. 4 pcs.
4) 25 sheets of white papers ……..
5) Red Refills …….. 6 nos.
6) Blue Refills …….. 2 nos.

Thereafter, an enquiry was conducted and ultimately he was dismissed from service by an order dated 30-08-1985. Against the said dismissal order, he raised an industrial dispute No.9 of 1987 on 09-11-1993.

3. The Tribunal, after considering the matter, held that though the charges were proved, the punishment of dismissal is too severe and therefore converted the same to that of compulsory retirement and also awarded retirement benefits and also a sum of Rs.10,000/-. Aggrieved by the said award, the present writ petition is filed.

4. The learned Counsel for workman submits that the award passed by the Tribunal is wholly illegal and arbitrary. He further submits that the charge of theft has not been established. Even otherwise, the value of

the alleged articles is hardly Rs.20/- and dismissing a person, who had completed more than 10 years of service as a Supervisor is too harsh. Therefore, the Tribunal inspite granting compulsory retirement ought to have ordered for reinstatement.

5. The learned counsel for the management – R2 submits that the petitioner being a supervisor involved in misconduct of theft and thus confidence cannot be reposed on such persons, who resort to the theft of the property of the company being in a supervisor post.

6. Heard both the learned Counsel appearing for the petitioner and also the learned Government Pleader for Social Welfare.

7. The petitioner was removed from service on 30-07-1985 for the misconduct of committing theft of property belonging to the company. By the date of removal, he has already put in more than ten years of service. But, however, the question that calls for consideration is whether the award of Tribunal is justified.

8. It is also on record that for the first time, the petitioner has committed such misconduct and there are no adverse remarks against him in the past and moreover the value of the items alleged to have been committed theft is not more than Rs.20/-. They are very very negligible. And in financial crisis, such a theft was committed.

9. I am not inclined to go into the aspect, as to whether the charge of theft has been established or not, since the Tribunal has categorically recorded a finding in that regard. Moreover, it is a fact about two decades has already been elapsed since the date of event.

10. I am not inclined to interfere with the order of the Tribunal with regard of dismissal to that of compulsory retirement. However, I find that the compensation granted to the petitioner by the tribunal is very meager, more especially, when he had worked for more than 10 years. Under those circumstances, I find that the Tribunal not exercised the jurisdiction in a proper perspective. Accordingly, I direct that the

petitioner is entitled for a further sum of Rs.10,000/-(Rupees Ten Thousand Only)towards compensation.

11. The Writ petition is accordingly disposed of directing the management to pay a further sum of Rs.10,000/-(Rupees Ten Thousand Only) to the petitioner within a period of six weeks from the date of receipt of a copy of this order. No costs.

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24.06.2004

G.BIKSHAPATHY, J.

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To

1 Chairman & Presiding Officer, Industrial Tribunal cum Labour Court, Visakhapatnam.
2 The Management, A.P.Paper Mills, rep., by Managing Director. Rajahmundry, East Godavari. District
3 2CCs to the G.P. for Social Welfare, High Court Buildings, Hyd., (OUT)
4 2CD copies